

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

RACHEL I. HOUCK,
a.k.a. RACHEL INA HOUCK,
a.k.a. RACHEL HOUCK
340 Third Street
Quincy, CA 95971

Registered Nurse License No. 499204
Public Health Nurse Certificate No. 51867

Respondent.

Case No. 2008-123

OAH No. 2007110732

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on April 21, 2008.

It is so ORDERED March 19, 2008.

LaTranene W Tate

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR., Attorney General
of the State of California
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8 Attorneys for Complainant

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10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 RACHEL I. HOUCK,
a.k.a. RACHEL INA HOUCK,
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340 Third Street
15 Quincy, CA 95971

16 Registered Nurse License No. 499204
17 Public Health Nurse Certificate No. 51867

18 Respondent.

Case No. 2008-123

OAH No. 2007110732

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
20 above-entitled proceedings that the following matters are true:

21 PARTIES

22 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of
23 the Board of Registered Nursing (Board). She brought this action solely in her official capacity
24 and is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of
25 California, by Geoffrey S. Allen, Deputy Attorney General.

26 2. Respondent Rachel I. Houck a.k.a. Rachel Ina Houck a.k.a. Rachel Houck,
27 (Respondent) is represented in this proceeding by attorney David T. Ludington, whose address
28 is: Law Offices, P.O. Box 3660, Quincy, CA 95971.

1 **Registered Nurse License No. 499204**

2 3. On or about March 31, 1994, the Board issued Registered Nurse License
3 Number 499204 (License) to Respondent. Respondent's License was in full force and effect at
4 all times relevant to the charges brought herein and will expire on November 30, 2009, unless
5 renewed.

6 **Public Health Nurse Certificate No. 51867**

7 4. On or about May 26, 1994, the Board issued Public Health Nurse
8 Certificate No. 51867 (Certificate) to Respondent. Respondent's Certificate was in full force
9 and effect at all times relevant to the charges brought herein and will expire on November 30,
10 2009, unless renewed.

11 JURISDICTION

12 5. Accusation No. 2008-123 (Accusation) was filed before the Board, and is
13 currently pending against Respondent. The Accusation and all other statutorily required
14 documents were properly served on Respondent on October 17, 2007. Respondent timely filed
15 her Notice of Defense contesting the Accusation. A copy of the Accusation is attached as
16 exhibit A and incorporated herein by reference.

17 ADVISEMENT AND WAIVERS

18 6. Respondent has carefully read, fully discussed with counsel, and
19 understands the charges and allegations in the Accusation. Respondent has also carefully read,
20 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
21 Disciplinary Order.

22 7. Respondent is fully aware of her legal rights in this matter, including the
23 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
24 counsel at her own expense; the right to confront and cross-examine the witnesses against her;
25 the right to present evidence and to testify on her own behalf; the right to the issuance of
26 subpoenas to compel the attendance of witnesses and the production of documents; the right to
27 reconsideration and court review of an adverse decision; and all other rights accorded by the
28 California Administrative Procedure Act and other applicable laws.

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that the License and Certificate issued to Respondent
3 are revoked. However, the revocations are stayed and Respondent is placed on probation for
4 three (3) years on the following terms and conditions.

5 **Severability Clause.** Each condition of probation contained herein is a separate
6 and distinct condition. If any condition of this Order, or any application thereof, is declared
7 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
8 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
9 and enforceable to the fullest extent permitted by law.

10 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws.
11 A full and detailed account of any and all violations of law shall be reported by Respondent to
12 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
13 compliance with this condition, Respondent shall submit completed fingerprint forms and
14 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
15 as part of the licensure application process.

16 **Criminal Court Orders:** If Respondent is under criminal court orders, including
17 probation or parole, and the order is violated, this shall be deemed a violation of these probation
18 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

19 2. **Comply with the Board's Probation Program.** Respondent shall fully
20 comply with the conditions of the Probation Program established by the Board and cooperate
21 with representatives of the Board in its monitoring and investigation of the Respondent's
22 compliance with the Board's Probation Program. Respondent shall inform the Board in writing
23 within no more than 15 days of any address change and shall at all times maintain an active,
24 current license status with the Board, including during any period of suspension.

25 Upon successful completion of probation, Respondent's license shall be fully
26 restored.

27 3. **Report in Person.** Respondent, during the period of probation, shall
28 appear in person at interviews/meetings as directed by the Board or its designated

1 representatives.

2 4. **Residency, Practice, or Licensure Outside of State.** Periods of
3 residency or practice as a registered nurse outside of California shall not apply toward a
4 reduction of this probation time period. Respondent's probation is tolled, if and when she
5 resides outside of California. Respondent must provide written notice to the Board within 15
6 days of any change of residency or practice outside the state, and within 30 days prior to re-
7 establishing residency or returning to practice in this state.

8 Respondent shall provide a list of all states and territories where she has ever been
9 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
10 provide information regarding the status of each license and any changes in such license status
11 during the term of probation. Respondent shall inform the Board if she applies for or obtains a
12 new nursing license during the term of probation.

13 5. **Submit Written Reports.** Respondent, during the period of probation,
14 shall submit or cause to be submitted such written reports/declarations and verification of actions
15 under penalty of perjury, as required by the Board. These reports/declarations shall contain
16 statements relative to Respondent's compliance with all the conditions of the Board's Probation
17 Program. Respondent shall immediately execute all release of information forms as may be
18 required by the Board or its representatives.

19 Respondent shall provide a copy of this Decision to the nursing regulatory agency
20 in every state and territory in which she has a registered nurse license.

21 6. **Function as a Registered Nurse.** Respondent, during the period of
22 probation, shall engage in the practice of registered nursing in California for a minimum of 24
23 hours per week for 6 consecutive months or as determined by the Board.

24 For purposes of compliance with the section, "engage in the practice of registered
25 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
26 work in any non-direct patient care position that requires licensure as a registered nurse.

27 The Board may require that advanced practice nurses engage in advanced practice
28 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the

1 Board.

2 If Respondent has not complied with this condition during the probationary term,
3 and Respondent has presented sufficient documentation of her good faith efforts to comply with
4 this condition, and if no other conditions have been violated, the Board, in its discretion, may
5 grant an extension of Respondent's probation period up to one year without further hearing in
6 order to comply with this condition. During the one year extension, all original conditions of
7 probation shall apply.

8 **7. Employment Approval and Reporting Requirements.** Respondent
9 shall obtain prior approval from the Board before commencing or continuing any employment,
10 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
11 performance evaluations and other employment related reports as a registered nurse upon request
12 of the Board.

13 Respondent shall provide a copy of this Decision to her employer and immediate
14 supervisors prior to commencement of any nursing or other health care related employment.

15 In addition to the above, Respondent shall notify the Board in writing within
16 seventy-two (72) hours after she obtains any nursing or other health care related employment.
17 Respondent shall notify the Board in writing within seventy-two (72) hours after she is
18 terminated or separated, regardless of cause, from any nursing, or other health care related
19 employment with a full explanation of the circumstances surrounding the termination or
20 separation.

21 **8. Supervision.** Respondent shall obtain prior approval from the Board
22 regarding Respondent's level of supervision and/or collaboration before commencing or
23 continuing any employment as a registered nurse, or education and training that includes patient
24 care.

25 Respondent shall practice only under the direct supervision of a registered nurse
26 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
27 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
28 are approved.

1 Respondent's level of supervision and/or collaboration may include, but is not
2 limited to the following:

3 (a) Maximum - The individual providing supervision and/or collaboration is
4 present in the patient care area or in any other work setting at all times.

5 (b) Moderate - The individual providing supervision and/or collaboration is in
6 the patient care unit or in any other work setting at least half the hours Respondent works.

7 (c) Minimum - The individual providing supervision and/or collaboration has
8 person-to-person communication with Respondent at least twice during each shift worked.

9 (d) Home Health Care - If Respondent is approved to work in the home health
10 care setting, the individual providing supervision and/or collaboration shall have person-to-
11 person communication with Respondent as required by the Board each work day. Respondent
12 shall maintain telephone or other telecommunication contact with the individual providing
13 supervision and/or collaboration as required by the Board during each work day. The individual
14 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
15 site visits to patients' homes visited by Respondent with or without Respondent present.

16 9. **Employment Limitations.** Respondent shall not work for a nurse's
17 registry, in any private duty position as a registered nurse, a temporary nurse placement agency,
18 a traveling nurse, or for an in-house nursing pool.

19 Respondent shall not work for a licensed home health agency as a visiting nurse
20 unless the registered nursing supervision and other protections for home visits have been
21 approved by the Board. Respondent shall not work in any other registered nursing occupation
22 where home visits are required.

23 Respondent shall not work in any health care setting as a supervisor of registered
24 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
25 nurses and/or unlicensed assistive personnel on a case-by-case basis.

26 Respondent shall not work as a faculty member in an approved school of nursing
27 or as an instructor in a Board approved continuing education program.

28 Respondent shall work only on a regularly assigned, identified and predetermined

1 worksite(s) and shall not work in a float capacity.

2 If Respondent is working or intends to work in excess of 40 hours per week, the
3 Board may request documentation to determine whether there should be restrictions on the hours
4 of work.

5 **10. Complete a Nursing Course(s).** Respondent, at her own expense, shall
6 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
7 than six months prior to the end of her probationary term.

8 Respondent shall obtain prior approval from the Board before enrolling in the
9 course(s). Respondent shall submit to the Board the original transcripts or certificates of
10 completion for the above required course(s). The Board shall return the original documents to
11 Respondent after photocopying them for its records.

12 **11. Cost Recovery.** Respondent shall pay to the Board costs associated with
13 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
14 amount of \$6,752.25. Respondent shall be permitted to pay these costs in a payment plan
15 approved by the Board, with payments to be completed no later than three months prior to the
16 end of the probation term.

17 If Respondent has not complied with this condition during the probationary term,
18 and Respondent has presented sufficient documentation of her good faith efforts to comply with
19 this condition, and if no other conditions have been violated, the Board, in its discretion, may
20 grant an extension of Respondent's probation period up to one year without further hearing in
21 order to comply with this condition. During the one year extension, all original conditions of
22 probation will apply.

23 **12. Violation of Probation.** If Respondent violates the conditions of her
24 probation, the Board after giving Respondent notice and an opportunity to be heard, may set
25 aside the stay order and impose the stayed discipline (revocation) of Respondent's License and
26 Certificate.

27 If during the period of probation, an accusation or petition to revoke probation has
28 been filed against Respondent's License or Certificate, or the Attorney General's Office has been

1 requested to prepare an accusation or petition to revoke probation against Respondent's License
2 or Certificate, the probationary period shall automatically be extended and shall not expire until
3 the accusation or petition has been acted upon by the Board.

4 13. **License Surrender.** During Respondent's term of probation, if she ceases
5 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
6 probation, Respondent may surrender her License or Certificate to the Board. The Board
7 reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant
8 the request, or to take any other action deemed appropriate and reasonable under the
9 circumstances, without further hearing. Upon formal acceptance of the tendered license and wall
10 certificate, Respondent will no longer be subject to the conditions of probation.

11 Surrender of Respondent's License or Certificate shall be considered a
12 disciplinary action and shall become a part of Respondent's license history with the Board. A
13 registered nurse whose license has been surrendered may petition the Board for reinstatement no
14 sooner than the following minimum periods from the effective date of the disciplinary decision:

15 (1) Two years for reinstatement of a license that was surrendered for any
16 reason other than a mental or physical illness; or

17 (2) One year for a license surrendered for a mental or physical illness.

18 14. **Physical Examination.** Within 45 days of the effective date of this
19 Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or
20 physician assistant, who is approved by the Board before the assessment is performed, submit an
21 assessment of the Respondent's physical condition and capability to perform the duties of a
22 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
23 medically determined, a recommended treatment program will be instituted and followed by the
24 Respondent with the physician, nurse practitioner, or physician assistant providing written
25 reports to the Board on forms provided by the Board.

26 If Respondent is determined to be unable to practice safely as a registered nurse,
27 the licensed physician, nurse practitioner, or physician assistant making this determination shall
28 immediately notify the Board and Respondent by telephone, and the Board shall request that the

1 Attorney General's office prepare an accusation or petition to revoke probation. Respondent
2 shall immediately cease practice and shall not resume practice until notified by the Board.
3 During this period of suspension, Respondent shall not engage in any practice for which a
4 license issued by the Board is required until the Board has notified Respondent that a medical
5 determination permits Respondent to resume practice. This period of suspension will not apply
6 to the reduction of this probationary time period.

7 If Respondent fails to have the above assessment submitted to the Board within
8 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
9 practice until notified by the Board. This period of suspension will not apply to the reduction of
10 this probationary time period. The Board may waive or postpone this suspension only if
11 significant, documented evidence of mitigation is provided. Such evidence must establish good
12 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
13 provided. Only one such waiver or extension may be permitted.

14 **15. Participate in Treatment/Rehabilitation Program for Chemical**
15 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary
16 period or shall have successfully completed prior to commencement of probation a Board-
17 approved treatment/rehabilitation program of at least six months duration. As required, reports
18 shall be submitted by the program on forms provided by the Board. If Respondent has not
19 completed a Board-approved treatment/rehabilitation program prior to commencement of
20 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled
21 in a program. If a program is not successfully completed within the first nine months of
22 probation, the Board shall consider Respondent in violation of probation.

23 Based on Board recommendation, each week Respondent shall be required to
24 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g.,
25 Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and
26 directed by the Board. If a nurse support group is not available, an additional 12-step meeting or
27 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
28 such attendance to the Board during the entire period of probation. Respondent shall continue

1 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
2 mental health examiner and/or other ongoing recovery groups.

3 **16. Abstain from Use of Psychotropic (Mood-Altering) Drugs.**

4 Respondent shall completely abstain from the possession, injection or consumption by any route
5 of all controlled substances and all psychotropic (mood altering) drugs, including alcohol, except
6 when the same are ordered by a health care professional legally authorized to do so as part of
7 *documented medical treatment. Respondent shall have sent to the Board, in writing and within*
8 *fourteen (14) days, by the prescribing health professional, a report identifying the medication,*
9 *dosage, the date the medication was prescribed, the Respondent's prognosis, the date the*
10 *medication will no longer be required, and the effect on the recovery plan, if appropriate.*

11 Respondent shall identify for the Board a single physician, nurse practitioner or
12 physician assistant who shall be aware of Respondent's history of substance abuse and will
13 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
14 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
15 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
16 condition. If any substances considered addictive have been prescribed, the report shall identify
17 a program for the time limited use of any such substances.

18 The Board may require the single coordinating physician, nurse practitioner, or
19 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
20 addictive medicine.

21 **17. Submit to Tests and Samples.** Respondent, at her expense, shall

22 participate in a random, biological fluid testing or a drug screening program which the Board
23 approves. *The length of time and frequency will be subject to approval by the Board.*

24 Respondent is responsible for keeping the Board informed of Respondent's current telephone
25 number at all times. Respondent shall also ensure that messages may be left at the telephone
26 number when she is not available and ensure that reports are submitted directly by the testing
27 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
28 to the Board by the program and Respondent shall be considered in violation of probation.

1 In addition, Respondent, at any time during the period of probation, shall fully
2 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
3 tests and samples as the Board or its representatives may require for the detection of alcohol,
4 narcotics, hypnotics, dangerous drugs, or other controlled substances.

5 If Respondent has a positive drug screen for any substance not legally authorized
6 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
7 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent
8 from practice pending the final decision on the petition to revoke probation or the accusation.
9 This period of suspension will not apply to the reduction of this probationary time period.

10 If Respondent fails to participate in a random, biological fluid testing or drug
11 screening program within the specified time frame, Respondent shall immediately cease practice
12 and shall not resume practice until notified by the Board. After taking into account documented
13 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the
14 Board may suspend Respondent from practice pending the final decision on the petition to
15 revoke probation or the accusation. This period of suspension will not apply to the reduction of
16 this probationary time period.

17 18. **Mental Health Examination.** Respondent shall, within 45 days of the
18 effective date of this Decision, have a mental health examination including psychological testing
19 as appropriate to determine her capability to perform the duties of a registered nurse. The
20 examination will be performed by a psychiatrist, psychologist or other licensed mental health
21 practitioner approved by the Board. The examining mental health practitioner will submit a
22 written report of that assessment and recommendations to the Board. All costs are the
23 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
24 result of the mental health examination will be instituted and followed by Respondent.

25 If Respondent is determined to be unable to practice safely as a registered nurse,
26 the licensed mental health care practitioner making this determination shall immediately notify
27 the Board and Respondent by telephone, and the Board shall request that the Attorney General's
28 office prepare an accusation or petition to revoke probation. Respondent shall immediately

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I have read and fully discussed with Respondent Rachel Houck, the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 1/9/08


DAVID T. LUDINGTON
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: 1/16/08

EDMUND G. BROWN JR., Attorney General
of the State of California

ARTHUR D. TAGGART
Supervising Deputy Attorney General

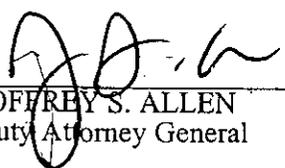

GEOFFREY S. ALLEN
Deputy Attorney General
Attorneys for Complainant

Exhibit A
Accusation No. 2008-123

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART
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3 GEOFFREY S. ALLEN, State Bar No. 193338
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7 Attorneys for Complainant
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15 Quincy, CA 95971

ACCUSATION

16 Registered Nurse License No. 499204
Public Health Nurse Certificate No. 51867

17 Respondent.
18

19 Complainant alleges:

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation
22 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
23 ("Board"), Department of Consumer Affairs.

24 **Registered Nurse License No. 499204**

25 2. On or about March 31, 1994, the Board issued Registered Nurse License
26 Number 499204 to Rachel I. Houck, also known as Rachel Ina Houck and Rachel Houck
27 ("Respondent"). Respondent's registered nurse license was in full force and effect at all times
28 relevant to the charges brought herein and will expire on November 30, 2007, unless renewed.

1 **Public Health Nurse Certificate No. 51867**

2 3. On or about May 26, 1994, the Board issued Public Health Nurse
3 Certificate No. 51867 to Respondent. Respondent's public health nurse certificate was in full
4 force and effect at all times relevant to the charges brought herein and will expire on November
5 30, 2007, unless renewed.

6 **STATUTORY PROVISIONS**

7 4. Business and Professions Code ("Code") section 2750 provides, in
8 pertinent part, that the Board may discipline any licensee, including a licensee holding a
9 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
10 2750) of the Nursing Practice Act.

11 5. Code section 2764 provides, in pertinent part, that the expiration of a
12 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
13 against the licensee or to render a decision imposing discipline on the license. Under Code
14 section 2811, subdivision (b), the Board may renew an expired license at any time within eight
15 years after the expiration.

16 6. Code section 2761, subdivision (a), states that the Board may take
17 disciplinary action against a certified or licensed nurse or deny an application for a certificate or
18 license for unprofessional conduct.

19 7. Code section 2762 states, in pertinent part:

20 In addition to other acts constituting unprofessional conduct within
21 the meaning of this chapter [the Nursing Practice Act], it is unprofessional
conduct for a person licensed under this chapter to do any of the following:

22 (a) Obtain or possess in violation of law, or prescribe, or except
23 as directed by a licensed physician and surgeon, dentist, or podiatrist
24 administer to himself or herself, or furnish or administer to another, any
25 controlled substance as defined in Division 10 (commencing with Section
11000) of the Health and Safety Code or any dangerous drug or dangerous
device as defined in Section 4022.

26 (b) Use any controlled substance as defined in Division 10
27 (commencing with Section 11000) of the Health and Safety Code, or any
28 dangerous drug or dangerous device as defined in Section 4022, or alcoholic
beverages, to an extent or in a manner dangerous or injurious to himself or

///

1 herself, any other person, or the public or to the extent that such use impairs
2 his or her ability to conduct with safety to the public the practice authorized
3 by his or her license. . .

3 8. Code section 4060 states:

4 No person shall possess any controlled substance, except that furnished to
5 a person upon the prescription of a physician, dentist, podiatrist, optometrist,
6 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
7 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
8 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant
9 pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or
10 a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause
11 (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.
12 This section shall not apply to the possession of any controlled substance by a
13 manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,
14 optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse
15 practitioner, or physician assistant, when in stock in containers correctly
16 labeled with the name and address of the supplier or producer.

11 Nothing in this section authorizes a certified nurse-midwife, a nurse
12 practitioner, a physician assistant, or a naturopathic doctor, to order his or
13 her own stock of dangerous drugs and devices.

13 9. Health and Safety Code section 11173, subdivision (a), states, in pertinent
14 part:

15 No person shall obtain or attempt to obtain controlled substances, or
16 procure or attempt to procure the administration of or prescription for controlled
17 substances, (1) by fraud, deceit, misrepresentation, or subterfuge . . .

17 Cost Recovery

18 10. Code section 125.3 provides, in pertinent part, that the Board may request
19 the administrative law judge to direct a licensee found to have committed a violation or
20 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
21 and enforcement of the case.

22 CONTROLLED SUBSTANCE AT ISSUE

23 11. "MS Contin" is a trade name for Morphine Sulfate, also known as
24 Morphine. Morphine is a Schedule II controlled substance as designated by Health and Safety
25 Code section 11055, subdivision (b)(1)(M).

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Diversion and Possession of a Controlled Substance)**

3 12. Respondent is subject to disciplinary action pursuant to Code section
4 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section
5 2762, subdivision (a), in that on June 15, 2005, while off duty as a home health and hospice
6 nurse for East Plumas Health Care ("EPHC") in Portola, California, Respondent did the
7 following:

8 **Diversion of a Controlled Substance:**

9 a. Respondent obtained the controlled substance MS Contin by fraud, deceit,
10 misrepresentation, or subterfuge, in violation of Health and Safety Code section 11173,
11 subdivision (a). On June 15, 2005, Respondent made an unscheduled visit to the residence of her
12 home health hospice patient, T.S. Respondent asked T.S. if she could have some of her
13 medication to give to another patient who was going to run out of medicine. Respondent then
14 opened T.S.'s bottle of MS Contin, removed four tablets, and left the residence. On June 16,
15 2005, Respondent was interviewed by EPHC's Director of Nursing, R.W., and admitted that she
16 made the unscheduled visit to T.S.'s residence and took her medication. Respondent then turned
17 over the four MS Contin tablets to R.W.

18 **Possession of a Controlled Substance:**

19 b. Respondent possessed four tablets of MS Contin without a valid
20 prescription from a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic
21 doctor, in violation of Code section 4060.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Self-Administration of a Controlled Substance)**

24 13. Respondent is subject to disciplinary action pursuant to Code Section
25 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section
26 2762, subdivision (a), in that she self-administered the controlled substance Morphine without
27 lawful authority therefor, as follows: On or about March 8, 2007, Respondent voluntarily
28 submitted a urine specimen for drug testing, as requested by Robert Anderson, Senior

1 Investigator with the Division of Investigation, Department of Consumer Affairs. Respondent
2 tested positive for Morphine.

3 **PRAYER**

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein
5 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

6 1. Revoking or suspending Registered Nurse License Number 499204, issued
7 Rachel I. Houck, also known as Rachel Ina Houck and Rachel Houck;

8 2. Revoking or suspending Public Health Nurse Certificate Number 51867,
9 issued to Rachel I. Houck, also known as Rachel Ina Houck and Rachel Houck;

10 3. Ordering Rachel I. Houck, also known as Rachel Ina Houck and Rachel
11 Houck, to pay the Board of Registered Nursing the reasonable costs of the investigation and
12 enforcement of this case, pursuant to Business and Professions Code section 125.3; and

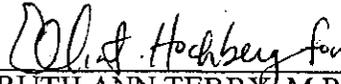
13 4. Taking such other and further action as deemed necessary and proper.

14 DATED: 10/9/07

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RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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Houck, Rachel.acc.wpd

28 clp; 8/28/07